

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA-PITTSBURGH

MICHAEL EVANS

:

VS.

: Civ. No. 00-0664

FRANKLIN, J. TENNIS, et al :

FILED

APR 12 2006

CLERK U.S. DISTRICT COURT
WEST. DIST. OF PENNSYLVANIA

MEMORANDUM IN SUPPORT OF PETITION TO RE-INSTATE 60(b) MOTION

On January 16, 2006, petitioner filed with this honorable court a rule 60(b) motion. On or about January 24, 2006, petitioner requested an application to amend initial 60(b) motion subsequently granted on February 8, 2006. This honorable court allowed petitioner until February 24, 2006 to file amended 60(b). Attached hereto, therefrom, marked as Exhibit (1). On February 18, 2006, petitioner deposited three (3) copies to the Clerk of Courts, three (3) copies to Magistrate Judge Hay, and one (1) copy to Allegheny County District Attorney in S.C.I. Rockviews' mail-box with attached receipts. Attached hereto, therefrom, marked as Exhibit (2). (prison receipts).

On April 2, 2006, petitioner deposited into prison mail-box a request to the Clerk of Courts for a "stamped" copy of the amended petition and requesting the status of petitioner's motion.

On April 6, 2006, petitioner received a document stating petitioner's 60(b) motion was terminated. Attached hereto,

therefrom, marked as Exhibit (3).

Petitioner has no idea of why his petition would be terminated other than the Clerk of Courts not filing or receiving the said documents. Petitioner has not-as of yet-received any return mail to suggest those documents were not served upon the Clerk; nor an order terminating said motion in accordance to F.R.Civ.Pr. rule 52.

Therefore, under above assumption, and assuming Magistrate Judge Hay had received said documents; petitioner requests this honorable court to accept the "Amended 30(b) motion" as timely filed in accordance to Fed.R.Civ.Pr. Rule 25(3); any contrary ruling would indeed prejudice petitioner. In addition, petitioner requests this Honorable court to consider the motion to proceed in this matter in "Forma Pauperis."

Respectfully Submitted,

Michael Evans

Michael Evans

CERTIFICATE OF SERVICE

I, Michael Evans hereby certify a true and correct copy of the foregoing has been sent on this 9th day of April, via United States Postal Service, First Class, Pre-paid, to the following:

Clerk of Courts

U.S. District Court

7th & Grant Street

Pittsburgh, PA 15219

District Attorney of Allegheny County

401 Allegheny County Courthouse

Pittsburgh, PA 15219

Magistrate Judge Hay

700 GRANT ST.

Pittsburgh, PA. 15219

Michael Evans

Michael Evans

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WESTERN DISTRICT OF PENNSYLVANIA-PITTSBURGH

MICHAEL EVANS

:

VS.

: Civ. No. 00-0664

FRANKLIN, J. TENNIS, et al :

CERTIFICATE OF VERIFICATION

I, Michael Evans hereby verify the foregoing is true and correct to the best of my knowledge and belief in accordance to statutes regarding unsworn statements.

Michael Evans

Michael Evans

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

| | | |
|----------------------------|---|-----------------------------------|
| MICHAEL EVANS, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| vs. |) | Civil Action No. 00-0664 |
| |) | |
| SUPERINTENDENT, STATE |) | Judge Joy Flowers Conti |
| CORRECTIONAL INSTITUTION |) | Magistrate Judge Amy Reynolds Hay |
| ROCKVIEW, ATTORNEY GENERAL |) | |
| OF THE COMMONWEALTH OF |) | |
| PENNSYLVANIA, |) | |
| |) | |
| Respondents. |) | |

ORDER

AND NOW, this 8th day of February, 2006, upon consideration of the Motion to Amend Motion for Relief under Rule 60(b), IT IS HEREBY ORDERED that the motion (doc. 14) is GRANTED.

IT IS FURTHER ORDERED that the Petitioner shall have until February 24, 2006, in which to file his Amended Motion for Relief under Rule 60(b) and serve same on opposing counsel.

/s/ Amy Reynolds Hay
AMY REYNOLDS HAY
United States Magistrate Judge

cc: Michael Evans
AP-9736
SCI Rockview
Box A
Bellefonte, PA 16823

Rebecca D. Spangler
Office of the District Attorney
Post Conviction/Habeas Corpus
401 Allegheny County Courthouse
Pittsburgh, PA 15219

SCI ROCKVIEW - POSTAGE RECEIPT

TO BE COMPLETED BY INMATE:

M.W. Straily
Ala. County D.A.'s Office Re: 606 Amendment
 Person to whom mail is sent
M. EVANS ES1519 BA 2-18-06
 Inmate Name Number Block Date

TO BE COMPLETED BY MAILROOM:

1.83 2/21
 Amount of Postage Date

Signature

SCI ROCKVIEW - POSTAGE RECEIPT

TO BE COMPLETED BY INMATE:

Administrative Judge Re: 606 Amendment
 Person to whom mail is sent
M. EVANS ES1519 BA 2-18-06
 Inmate Name Number Block Date

TO BE COMPLETED BY MAILROOM:

4.20 2/21
 Amount of Postage Date

Signature

SCI ROCKVIEW - POSTAGE RECEIPT

TO BE COMPLETED BY INMATE: *Witherby Amendment*
U.S. Clerk of Courts District

Person to whom mail is sent
M. EVANS ES1519 BA 2-18-06
 Inmate Name Number Block Date

TO BE COMPLETED BY MAILROOM:

4.20 2/21
 Amount of Postage Date

Signature

UNITED STATES DISTRICT COURT
OFFICE OF THE CLERK
WESTERN DISTRICT OF PENNSYLVANIA
P. O. BOX 1805
PITTSBURGH, PA 15230
WWW.PAWD.USCOURTS.GOV

ROBERT V. BARTH, JR.
CLERK OF COURT
412-208-7500

IN REPLYING, GIVE NUMBER
OF CASE AND NAMES OF PARTIES

April 4, 2006

Michael Evans ES1519
Box A
Bellefonte, PA 16823

00cv664

This office has received your letter regarding the status of your case.

- The papers have been submitted to a member of the court for disposition; you will be advised of any decision.
- The forms you requested are enclosed.
- Due to technical defects, the pleading(s) cannot be accepted. Please correct the defect(s) checked below:
- Failure to include \$250.00 filing fee for a civil complaint or to submit proper in forma pauperis petition
- Failure to include \$5.00 filing fee for a habeas corpus petition or to submit proper in forma pauperis petition
- Failure to complete or sign pauper's affidavit
- Failure to submit complaint on proper 1983 forms, supplied by the Clerk Failure to submit petition on proper 2254 forms, supplied by the Clerk
- Failure to sign complaint or petition.
- Failure to furnish the correct number of copies of complaint and accompanying pleadings; must submit original and a separate, accurate copy for each defendant of all papers
- Failure to file separate petition for each conviction, attacking more than one judgment
- Failure to furnish correct number of copies of petition and accompanying papers
- Failure to submit pleadings to the court on paper no larger than 8 1/2 by 11 inches
- Failure to include certificate of authorized officer as to amount of money and securities on deposit in prison account or proper affidavit of non-compliance
- Failure to attach certificate of service regarding supplemental pleadings, after complaint or petition had been submitted and/or filed
- Failure to attach a proper certificate of service; service is not made upon the Clerk for distribution to the parties; this is the responsibility of the moving party
- Except by leave of court, discovery material is no longer accepted for filing according to Local Rule 5.3
- Additional information required as follows:

The last entry on the docket indicates that your Motion for Relief Under Rule 601(b) was terminated. In addition, to receive a copy of any pleadings you submit for filing, you must include a self-addressed stamped envelope.

Very truly yours,
Robert V. Barth, Jr.
Clerk of Court

By Edward Taylor
Edward Taylor